

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8653

Investigation pursuant to 30 V.S.A. §§ 30 and)
209 into sound levels from the Vermont Wind, LLC)
wind electric generation facility in Sheffield, Vermont)

Order entered: 12/11/2015

**ORDER OPENING INVESTIGATION AND NOTICE OF
PREHEARING CONFERENCE**

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board"), pursuant to 30 V.S.A. §§ 30, 209, and 248, opens an investigation into the compliance of Vermont Wind, LLC ("Vermont Wind") with certain terms and conditions of the final Order and Certificate of Public Good issued on August 8, 2007, in Docket 7156, as modified by the Board's October 1, 2007, Order in that docket (the "Docket 7156 CPG").

II. BACKGROUND

On March 3, 2014, the Board received a complaint from Paul Brouha regarding sound levels at his residence associated with the Sheffield Wind project operated by Vermont Wind (the "Project").¹ In his complaint, Mr. Brouha alleges that Vermont Wind is in violation of Conditions 8 and 9 of the Docket 7156 CPG, which require that the Project not result in sound levels in excess of 30 dBA(Leq) at surrounding residences and that, in the event that levels exceed this threshold, Vermont Wind take all necessary steps to bring the Project into compliance with such levels. With his complaint, Mr. Brouha included a copy of a report conducted by the Noise Pollution Clearinghouse assessing sound levels at his residence ("NPC Report").

1. The filing of the complaint by Mr. Brouha does not automatically confer party status on him for the investigation we open with today's Order. If Mr. Brouha wishes to participate as a party in this proceeding, he must file a Motion to Intervene pursuant to Board Rule 2.209, which can be found on the Board's website at:
http://psb.vermont.gov/sites/psb/files/rules/OfficialAdoptedRules/2000_Rules_of_Practice.pdf.

On March 13, 2014, Vermont Wind filed a response to Mr. Brouha's complaint.

On March 27, 2014, Mr. Brouha filed a letter addressing Vermont Wind's response and including a copy of the peer review of the NPC Report conducted by Cavanaugh Tocci Associates, Inc.

On April 11, 2014, the Board issued a memorandum requesting comments from the Vermont Department of Public Service ("Department") regarding Mr. Brouha's complaint.

On April 21, 2014, the Department requested an extension to file comments with the Board. In its request for an extension, the Department indicated that it had retained an independent expert to review the issues raised by Mr. Brouha's complaint and requested additional time to complete that review.

Over the course of 2014, the Department filed with the Board periodic status updates on its analysis of Mr. Brouha's complaint.

On October 14, 2015, the Department filed its comments in response to Mr. Brouha's complaint with the Board ("Department Comments"). The Department states that it retained an independent consultant to review the NPC report and make recommendations. Based on this review, the Department concludes that it is possible that sound at the Brouha residence may have approached levels that violate the conditions of the Docket 7156 CPG and recommends that the Board initiate an investigation in response to Mr. Brouha's complaint. However, the Department notes that additional guidance to be used in monitoring Project sound may be necessary to arrive at a determination of CPG compliance. Based on this conclusion, the Department recommends that the Board make a determination as to what monitoring variables should be included in assessing Vermont Wind's compliance with the sound limits contained in the Docket 7156 CPG and, based on that determination, whether additional sound monitoring at the Brouha residence would be appropriate.

On November 13, 2015, Vermont Wind filed a response to the Department Comments in which it requests that the Board either hold a status conference to address the matter or, if the Board seeks comments from Vermont Wind, grant Vermont Wind until December 4, 2015, to prepare such comments.

On November 16, 2015, Mr. Brouha filed a response to the Department Comments arguing that there is no need for further clarification of the sound standards contained in the Docket 7156 CPG, that the Project is in violation of that CPG, and that the Board should require permanent, continuous sound monitoring by a third party at Mr. Brouha's residence.

On November 18, 2015, Vermont Wind filed a letter stating that it disagreed with Mr. Brouha's contention that the Project is not in compliance with its CPG and again recommending that the Board convene a status conference.

III. DISCUSSION AND CONCLUSION

Based on the comments filed by Mr. Brouha, the Department, and Vermont Wind, the Board has decided to open an investigation in response to Mr. Brouha's complaint. The hearing officer should consider whether additional clarification of the sound standards is needed to assess compliance with the Docket 7156 CPG, and whether, based on those standards, the Project is in compliance with that CPG.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to 30 V.S.A. §§ 30, 209, and 248, an investigation is opened to determine if any further clarification of the sound standards is needed to assess the compliance of the Sheffield Wind Project (the "Project") with the Certificate of Public Good issued to it in Docket 7156, and whether operation of the Project has resulted in sound levels in excess of the applicable limits at the residence of Paul Brouha.
2. Pursuant to 30 V.S.A. § 8, George Young, Esq., Policy Director, is appointed to serve as the hearing officer to conduct the proceedings in this matter.
3. Pursuant to 30 V.S.A. § 10, a prehearing conference will be held before the hearing officer on Friday, January 8, 2016, commencing at 2:30 P.M., in the Board's Hearing Room located on the 3rd floor of the People's United Bank Building, 112 State Street, Montpelier, Vermont.

Dated at Montpelier, Vermont, this 11th day of November, 2015.

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| <u>s/ James Volz</u> |) | |
| |) | PUBLIC SERVICE |
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| <u>s/ Margaret Cheney</u> |) | BOARD |
| |) | |
| |) | OF VERMONT |
| <u>s/ Sarah Hofmann</u> |) | |

OFFICE OF THE CLERK

FILED: December 11, 2015

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)